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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant(s): Kouznetsov et al.

Application No.: 10/057,709

Filed: January 25, 2002

Title: System And Method For Providing
Web Browser-Based Secure Remote
Network Appliance Configuration In
A Distributed Computing
Environment

Group Art Unit: 2151

Examiner: Unassigned

Attorney Docket No.: 002.0233.01

RECEIVED
APR 18 2002
OFFICE OF PETITIONS

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION FOR PATENT APPLICATION
FILING UNDER 37 CFR 1.47(a)

Dear Sir:

Applicant petitions for the filing of the present patent application in light of an inventor, Daniel J. Melchione, who refuses to sign or cannot be reached pursuant to 37 CFR 1.47(a).

Mr. Melchione is named as a joint inventor on the above-identified patent application ("Patent Application"). Copies of the Filing Receipt and Notice to File Missing Parts of Nonprovisional Application are provided at Exhibit 1. Mr. Melchione has refused to sign the application papers despite reasonable efforts to contact him and secure his signature.

The patent application is a conversion of U.S. provisional patent application Serial No. 60/309,835, filed August 3, 2001. The Filing Receipt for the provisional patent application, listing Daniel J. Melchione as an applicant, is provided at Exhibit 2. Mr. Melchione assigned over all rights, title and interest in the provisional patent application to his former employer Networks Associates Technology, Inc. ("Networks Associates"), the assignee of the Patent Application, on August 2, 2001 (Exhibit 3). Thus, Networks Associates owns all rights, title and interest in the subject matter of the provisional patent application vis-à-vis Mr. Melchione.

The patent application is also a conversion of U.S. provisional patent application Serial No. 60/309,858, filed August 3, 2001. The Filing Receipt for the provisional patent application, listing Daniel J. Melchione as an applicant, is provided at Exhibit 4. Mr. Melchione assigned over all rights, title and interest in the provisional patent application to Networks Associates, the assignee of the Patent Application, on August 2, 2001 (Exhibit 5). Thus, Networks Associates owns all rights, title and interest in the subject matter of the provisional patent application vis-à-vis Mr. Melchione.

As well, Mr. Melchione is subject to an obligation to assign the Patent Application to his former employer, Networks Associates. As a condition of employment with Networks Associates, he signed an "Employee Inventions and Proprietary Rights Assignment Agreement" ("Employee Agreement"), dated April 24, 2000 (Exhibit 6). In his Employee Agreement, Mr. Melchione agreed to "assign and agree to assign to the Company [Networks Associates] . . . [his] entire right, title and interest in and to all inventions and any associated intellectual property rights which [he] may solely or jointly conceive, develop or reduce to practice during the period of [his] employment" and to execute documents and assist and cooperate in the registration and enforcement of applicable patents. Further, according to the terms of the Employee Agreement, Mr. Melchione agreed that if "the Company is unable for any reason to secure my signature to any document required to apply for or execute any patent . . . [he] hereby irrevocably designate[s] and appoint[s] the Company and its duly authorized officers and agents as my agents and attorneys-in-fact to act for and on my behalf and instead of me, to execute and file any such application and to do all other lawfully permitted acts to further the prosecution and issuance of patents . . . with the same legal force and effect as if executed by me." As an agent of Networks Associates, Applicant's representative asserts Networks Associates' designation and appointment to act on behalf of Mr. Melchione to execute and file the Patent Application.

In addition, Applicant's representative has undertaken reasonable efforts to contact Mr. Melchione and secure his signature. Mr. Melchione left the employ of Networks Associates around August 5, 2001 and has not been in contact with either the Applicant or Applicant's representative. Applicant was therefore unable to directly obtain Mr. Melchione's signature on an Oath or Declaration for the Patent Application. A declaration by Applicant's representative's paralegal, Casey Leichter, is provided at Exhibit 7, in support of the efforts undertaken to contact

Mr. Melchione. On December 21, 2001, Applicant's representative mailed the following documents ("Documents") to Mr. Melchione via Certified Mail with Return Receipt Requested and by First Class Mail: (1) U.S. Patent Application entitled, "System And Method For Providing A Framework For Network Appliance Management In A Distributed Computing Environment"; (2) Declaration and Power of Attorney; (3) Assignment; and (4) cover letter from the Law Offices of Patrick J.S. Inouye, dated December 21, 2001 (Exhibit 8). Copies of the Certificate of Mailing and Certified Mail Receipt are provided at Exhibit 9. Around January 31, 2002, the Certified Mailing Document Set was returned as unclaimed. A copy of the envelope for the Certified Mailing Document Set, indicating the reason for return, is provided at Exhibit 10. A copy of the partially-signed Declaration requiring Mr. Melchione's signature is provided at Exhibit 11.

Accordingly, in light of assignments of the subject matter disclosed in the related provisional patent applications, Mr. Melchione's obligation to assign, and the reasonable efforts undertaken by Applicant's representative, Applicant requests the grant of this Petition for the filing of the Patent Application in light of the refusal of Mr. Melchione to sign the application papers. A petition fee of \$130.00 is enclosed. Please contact the undersigned at (206) 381-3900 regarding any questions or concerns associated with the present matter.

Respectfully submitted,

Dated: April 11, 2002

By: 

Patrick J.S. Inouye, Esq., Reg. No. 40,297

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